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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,271	09/15/2003	Paul M. Hamilton	112,800	9022

7590 07/19/2004

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EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,271

Applicant(s)

HAMILTON, PAUL M.

Examiner

Lee Lum

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, the emphasized language in "in the shape of a motorcycle fuel tank" is indefinite. In the last two lines, "said...plastic member simulating a motorcycle fuel tank" is unclear/redundant because the abovementioned language is similar.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- A. As best understood, **Claims 1-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Camfield et al 5505493 in view of Osuchowski et al 3930667.

As best understood, Camfield discloses an accessory for a bicycle having a top tube 24, best depicted in fig 4, comprising

Plastic member 52 "shaped as a motorcycle fuel tank", including a bottom,

Receipt channel 53 (lower left illustration) as attachment means, including first and second attachment members (unidentified screws) on either side.

The reference does not disclose that the simulated tank (as best understood) is inflatable, while Osuchowski shows this feature as element 10, which "simulates a tank", and is inflatable. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this arrangement, as shown in Osuchowski, to provide an

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alternate embodiment which is cheaper and easier to assembly, while providing the same function – a simulation of a fuel tank.

B. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Camfield in view of Osuchowski, and in further view of Skirchak Jr et al 5499835.

The previous references do not disclose a simulated filler cap on the tank, while Skirchad shows this element 56/58 in fig 3. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this element, as shown in Skirchak, to further the illusion of a simulated fuel tank for aesthetic purposes.

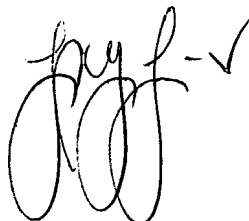
3. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Brambach 6036046, Eden 5851017, Matties 5669660, Lorbiecki 5658050, Barlow et al 4463515, Cook 4201011, Jones 3978901, Escobedo 3785086, Yamada et al, Des. 300418.

4. Communication with USPTO/Examiner

Any inquiry concerning this communication should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum
Examiner
7/7/04



LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600